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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/994,184 | 11/26/2001 | Siegfried Bocioneck | P01,0415 | 9465 |

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SCHIFF HARDIN, LLP
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EXAMINER

HANNE, SARA M

ART UNIT PAPER NUMBER

2179

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/994,184

Applicant(s)

BOCIONEK ET AL.

Examiner

Sara M Hanne

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/5/2002</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the workstation" in line 10. There is insufficient antecedent basis for this limitation in the claim. Claims 2-11 are rejected on their dependency upon Claim 1.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-6 and 8-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Buytaert, US Patent 6359628.

As in Claim 1, Buytaert teaches a medical system architecture comprising a modality for acquiring examination images (Column 3, lines 16-20), a processor connected to the modality for processing the examination images (personal computer), a transmission system connected to the processor for transmitting the examination images to a location remote from the processor (Column 5, lines 4-8), a memory connected to the transmission system for storing the examination images (Column 6, lines 52-56), and the processor being programmed as an RIS client for exchanging text messages (identification information) and for displaying an RIS client window (Figure 3 and Column 6, lines 18-21) and for creating RIS interaction masks (Column 6, lines 50-52), and the workstation having a network connection to an RIS server for communicating with the RIS client (Column 5, lines 2-10).

As in Claim 2, Buytaert teaches the processor comprising RIS client software for processing the examination images (Column 5, lines 30-33).

As in Claim 3, Buytaert teaches the processor includes general operating software, and wherein the RIS client software is integrated into the general operating software (Column 5, lines 25-29).

As in Claim 4, Buytaert teaches the processor including RIS client software integrated into the user interface (Column 6, lines 10-12).

As in Claim 5, Buytaert teaches the processor including platform software, and wherein the RIS client software is integrated into the platform software (Figure 4).

As in Claim 6, Buytaert teaches the processor having a monitor (Figure 1, ref. 1), and wherein the processor is programmed for displaying the examination images on the monitor and for mixing the RIS client window into a display on the monitor next to the examination images (Column 4, lines 8-13).

As in Claim 8, Buytaert teaches a processor includes a user interface, and wherein the RIS client has a task card allocated thereto on the user interface (Figure 4).

As in Claim 9, Buytaert teaches a workflow associated with acquiring and processing and processing the examination images is controlled by the RIS client for automatic information transmission (Column 6, lines 57-63).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buytaert, US Patent 6359628, and further in view of Derzay et al., US Patent 6578002.

Buytaert teaches modality for acquiring examination images, a processor, a transmission system for transmitting the examination images to a remote memory location, and the processor being programmed as an RIS client for exchanging text messages, displaying an RIS client window, simultaneously with the examination

images on the processor's monitor (See Claim 6 rejection *supra*), and for creating RIS interaction masks, as well as a network connection for RIS server to RIS client communication (See Claim 1 rejection *supra*).

As in Claim 7, while Buytaert teaches the modality image acquisition and processor with RIS client interface for transmitting the images to a remote memory location with simultaneous display of the RIS client window and examination images, they fail to show an icon displayed on the monitor used to open the RIS client window as recited in this claim. In the same field of the invention, Derzay et al. teaches a modality image acquisition and RIS client interface similar to that of Buytaert. In addition, Derzay et al. further teaches the processor displaying an icon on the monitor with which the RIS client window can be opened ("Main web page 110 may therefore be viewable by clicking an input device such as a mouse on an icon (not shown) on the normal operational screen.", Column 12, lines 24-26). It would have been obvious to one of ordinary skill in the art, having the teachings of Buytaert and Derzay et al. before him at the time the invention was made, to modify the modality image acquisition and processor with RIS client interface for transmitting the images to a remote memory location with simultaneous display of the RIS client window and examination images taught by Buytaert to include the RIS client window icon of Derzay et al., in order to obtain an icon-activated RIS client window for image and data transmission specifications. One would have been motivated to make such a combination because a user-friendly input entry activation tool would have been obtained, as taught by Derzay et al.

As in Claim 10, While Buytaert teaches the modality image acquisition and processor with RIS client interface for transmitting the images to a remote memory location, they fail to show the RIS client controlled image analysis as recited in this claim. In the same field of the invention, Derzay et al. teaches a modality image acquisition and RIS client interface similar to that of Buytaert. In addition, Derzay et al. further teaches the processor functioning as a control console for the modality, and wherein the RIS client supplies data for analyzing the examination images (Column 6, lines 15-24). It would have been obvious to one of ordinary skill in the art, having the teachings of Buytaert and Derzay et al. before him at the time the invention was made, to modify the modality image acquisition and processor with RIS client interface for transmitting the images to a remote memory location taught by Buytaert to include the RIS client controlled image analysis of Derzay et al., in order to obtain client control of analyzing images for transmission. One would have been motivated to make such a combination because a user-customized method for routing images by content would have been obtained, as taught by Derzay et al.

As in Claim 11, while Buytaert teaches the modality image acquisition and processor with RIS client interface for transmitting the images to a remote memory location, they fail to show the statistics module as recited in this claim. In the same field of the invention, Derzay et al. teaches a modality image acquisition and RIS client interface similar to that of Buytaert. In addition, Derzay et al. further teaches the RIS client comprising a statistics module for evaluating data associated with the examination images (Column 20, lines 36-51). It would have been obvious to one of ordinary skill in

Art Unit: 2173

the art, having the teachings of Buytaert and Derzay et al. before him at the time the invention was made, to modify the modality image acquisition and processor with RIS client interface for transmitting the images to a remote memory location taught by Buytaert to include the RIS client statistics module of Derzay et al., in order to obtain a system for statistical analysis and processing of medical images. One would have been motivated to make such a combination because a strategic, mathematical image analysis would have been obtained, as taught by Derzay et al.

Conclusion


The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach similar image acquisition and transmission systems with GUIs for user documentation, image analysis and routing entries.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara M Hanne whose telephone number is (703) 305-0703. The examiner can normally be reached on M-F 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (703) 308-3116. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smh


RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173